

National Conference of State Legislatures

LEGISBRIEF

BRIEFING PAPERS ON THE IMPORTANT ISSUES OF THE DAY

MARCH 2009

VOL. 17, No. 16

EXHIBIT
DATE 3-10-2009
SB 367

Absentee Voting for Military and Overseas Citizens

By Tom Intorcio

*It is difficult
for Americans
overseas to vote.*

It has never been easy for Americans overseas to vote. At present, military and overseas voters must navigate myriad state and local regulations that often delay receipt and processing of both their registration forms and absentee ballots. Outmoded systems and unpredictable domestic and international mail service also hamper overseas voters. According to the Election Assistance Commission data, in 2006, only 26.5 percent of the roughly 1 million absentee ballots requested by military and overseas Americans were cast and counted. In the same year, 35,000 military and overseas citizen ballots were returned to local election officials as undeliverable.

Congress passed the Uniformed and Overseas Citizens Absentee Voting Act in 1986 to help eligible members of the armed services, their families and other citizens overseas to vote. The main provisions of the law require states to 1) permit absent, uniformed services voters, their spouses and dependents who no longer maintain a U.S. residence to register absentee and to vote by absentee ballot in all federal elections (overseas voters are eligible to register absentee in the jurisdiction of their last residence); and 2) accept and process any valid voter registration application from an absent, uniformed services voter or overseas voter if the application is received not less than 30 days before the election. In 2001, the U.S. General Accounting Office estimated that the act covered 6.1 million citizens, including 2.7 million active military personnel and their relatives.

*One-third of
states do not
allow enough
time for overseas
voters.*

In a new report from the Center on the States, researchers found that only 33 states provide enough time for military personnel stationed overseas to vote, and as many as half of them need to improve their absentee voting process to ensure the votes of servicemen and women abroad will be counted. The report, *No Time to Vote: Challenges Facing America's Overseas Military Voters*, is the first detailed public analysis of states' voting systems for overseas military personnel. Federal surveys of military personnel show these voters struggle with an onerous and complex process. Among military personnel who reported not voting in 2004, 30 percent said they were not able to vote because their ballots never arrived or arrived too late. Another 28 percent said they did not know how to get a ballot, found the process too complicated, or were unable to register.

*The military
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often further
delays ballot
delivery.*

At the core of the problem is the fact that the military postal system cannot deliver absentee ballots to military and overseas voters quickly enough to allow adequate time for completion and return. The report notes that:

Mail delivery times are critical, especially for blank and completed ballots. On average, states do not send out blank absentee ballots until 35 to 40 days before the election. This leaves little to no room for delay or error, as standard military mail delivery times range from 24 to 36 days round-trip.

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No Time to Vote indicates that 16 states and the District of Columbia often do not provide enough time for military personnel stationed overseas to vote. These states send absentee ballots after the date necessary for military voters to meet all required deadlines. Three states are "at risk" for not allowing military personnel overseas enough time to vote. They provide only five or less additional days beyond the number necessary to cast a ballot. This limited cushion is inadequate to ensure against unforeseen delays. Six states provide enough time to vote only if overseas military personnel return their completed ballots by fax or e-mail—a requirement that raises concerns about accessibility, privacy and security of electronic transmission.

The U.S. Department of Defense Federal Voting Assistance Program recommends a minimum of 45 days between the date the ballot is mailed to the voter and the return deadline. ~~Only 10 states mail ballots~~ to military and overseas voters 45 days or more before all elections.

No Time to Vote

Alabama
Arkansas
Connecticut
Georgia
Maine
Massachusetts
Michigan
Missouri
New Hampshire
New York
Oklahoma
South Dakota
Tennessee
Texas
Utah
Wyoming
District of Columbia

Sixteen states send ballots after the date necessary for voters to meet deadlines.

State Action Providing a minimum of 45 days transit time is one critical step states have taken to improve the system. ~~Leveraging electronic transmission is another. Thirty-two states authorize local elections offices to send blank ballots to overseas voters by either fax or e-mail.~~ In 2008, at least seven states enacted legislation to authorize some form of electronic transmission. Minnesota law allows absentee voters to request that a ballot be delivered electronically. Once delivered, the ballot must be printed and mailed to county auditors, but the new law is designed to cut current transit time in half. Georgia law allows military and overseas voters to electronically submit requests for an absentee ballot. A 2007 Texas law established a pilot program whereby military voters who did not receive balloting materials sent by U.S. airmail can request a blank ballot be sent electronically to a military e-mail address. The voter must print and mail or fax the ballot back, but the secretary of state's office has confirmed that this significantly expedites delivery.

At least a 45-day transit time must be provided.

Federal Action Several congressional bills were considered in 2008 to expedite delivery of military and overseas absentee ballots. The Military Voter Protection Act, S. 3073, as amended, passed the Senate unanimously on Oct. 1, 2008. Although it was referred to the House Administration Committee, it did not receive further consideration before the 110th Congress adjourned.

Resources

Congressional Research Service. *The Uniformed and Overseas Citizens Absentee Voting Act: Background and Issues*. Washington, D.C.: CRS, Oct. 6, 2008.

National Commission on Federal Election Reform. *Building Confidence in U.S. Elections*. Washington, D.C.: Center for Democracy and Election Management, American University, September 2005; www.american.edu/ia/cfer/index.htm.

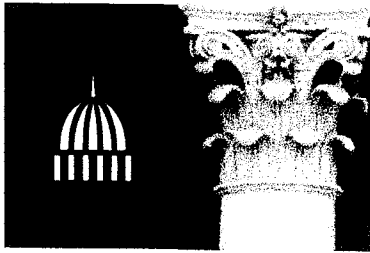
Pew Center on the States. *No Time to Vote*. Washington, D.C.: Pew Center on the States, January 2009; www.pewtrusts.org/our_work_report_detail.aspx?id=47922.

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In a new report from the Pew Center on the States, researchers found that one-third of all states do not provide enough time for military personnel stationed overseas to vote, and as many as half of all states need to improve their absentee voting process to ensure the votes of servicemen and women abroad will be counted. The report, *No Time to Vote: Challenges Facing America's Overseas Military Voters*, is the first detailed public analysis of states' voting systems for overseas military personnel. Federal surveys of military personnel show these voters struggle with an onerous and complex process. Among military personnel who reported not voting in 2004, 30 percent said they were not able to vote because their ballots never arrived or arrived too late. Another 28 percent said they did not know how to get a ballot, found the process too complicated, or were unable to register.

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Pew Center on the States. *No Time to Vote*. Washington, D.C.: Pew Center on the States, January 2009; www.pewtrusts.org/our_work_report_detail.aspx?id=47922.

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No Time to Vote

Alabama
Arkansas
Connecticut
Georgia
Maine
Massachusetts
Michigan
Missouri
New Hampshire
New York
Oklahoma
South Dakota
Tennessee
Texas
Utah
Wyoming
District of Columbia

Sixteen states send ballots after the date necessary for voters to meet deadlines.

At least a 45-day transit time must be provided.

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CHAPTER 20
RESERVEDEXHIBIT 1
DATE 3-10-2009
SB SB 367CHAPTER 21
MONTANA ABSENT UNIFORMED SERVICES
AND OVERSEAS ELECTOR VOTING ACT

Part 1 — General Provisions

- 13-21-101. Short title.
13-21-102. Definitions.
13-21-103. Secretary of state designated as single point of contact — rulemaking.
13-21-104. Adoption of rules — acceptance of funds.

Part 2 — Absentee Voting

- 13-21-201. Registration of United States electors — simultaneous application for absentee ballot.
13-21-202. Classification of applications for regular absentee ballots — notification of elector.
13-21-203. Registration of United States electors after return.
13-21-204. Repealed.
13-21-205. Federal write-in absentee ballot.
13-21-206. Counting of federal write-in absentee ballots.
13-21-207. Registration and voting by facsimile and internet authorized.
13-21-208 and 13-21-209 reserved.
13-21-210. Application for absentee ballots.
13-21-211. Replacement absentee ballots.
13-21-212. Mailing ballots to United States elector.
13-21-213. Report on absentee ballots.

Part 1
General Provisions

13-21-101. Short title. This chapter may be cited as the “Montana Absent Uniformed Services and Overseas Elector Voting Act”.

History: En. Sec. 1, Ch. 557, L. 2003.

13-21-102. Definitions. As used in this chapter, the following definitions apply:

(1) “Absent uniformed services elector” means an absent uniformed services voter pursuant to 42 U.S.C. 1973ff-6 who is:

(a) a member of the uniformed services on active duty who, by reason of the active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(b) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; or

(c) a spouse or dependent of a member referred to in subsection (1)(a) or (1)(b) who, by reason of the member’s active duty, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

(2) “Federal post card application” means the federal post card application prescribed pursuant to 42 U.S.C. 1973ff.

(3) “Federal write-in absentee ballot” means the federal write-in absentee ballot prescribed pursuant to 42 U.S.C. 1973ff-2.

(4) “Member of the merchant marine” means, pursuant to 42 U.S.C. 1973ff-6, a person, other than a member of the uniformed services or an individual employed, enrolled, or maintained on the Great Lakes of the inland waterways, who is:

(a) employed as an officer or crew member of a vessel documented under the laws of the United States, a vessel owned by the United States, or a vessel of a foreign-flag registry under charter to or control of the United States; or

(b) enrolled as an officer or crew member with the United States for employment or for training for employment or who is maintained by the United States for emergency relief service on a vessel described in subsection (4)(a).

(5) “Overseas elector” means an overseas voter pursuant to 42 U.S.C. 1973ff-6 who is:

- (a) an absent uniformed services elector who by reason of active duty or service is absent from the United States on the date of the election involved;
- (b) a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or
- (c) a person who resides outside the United States and would otherwise be qualified to vote in the last place in which the person was domiciled before leaving the United States.
- (6) "Regular absentee ballot" means the absentee ballot prepared by the election administrator for any election.
- (7) "Uniformed services" means, pursuant to 42 U.S.C. 1973ff-6, the U.S. army, navy, air force, marine corps, and coast guard, the commissioned corps of the U.S. public health service, and the commissioned corps of the U.S. national oceanic and atmospheric administration.

(8) "United States", as used in the context of describing a geographical area, means, pursuant to 42 U.S.C. 1973ff-6, the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

(9) "United States elector" means an absent uniformed services elector or an overseas elector.

(10) "Voter registration form" means the form approved by the secretary of state that an elector may use to register to vote in Montana.

History: En. Sec. 2, Ch. 557, L. 2003.

13-21-103. Secretary of state designated as single point of contact — rulemaking.

(1) The office of the secretary of state is the state's single point of contact responsible for providing information regarding voter registration and absentee ballot procedures to be used by a United States elector.

(2) The secretary of state shall, with the assistance of local election administrators, compile, make available to the general public, or forward to appropriate federal authorities any reports or information required to be compiled, made available, or forwarded pursuant to federal law.

(3) The secretary of state may adopt rules to implement the provisions of this chapter.

History: En. Sec. 3, Ch. 557, L. 2003; amd. Sec. 1, Ch. 157, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 157 inserted (3) concerning adoption of rules. Amendment effective October 1, 2007.

13-21-104. Adoption of rules — acceptance of funds. (1) The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement 13-21-207. The rules are binding upon election administrators. The rules must require compliance with the same time requirements or deadlines as for registration and voting by absentee ballot by use of the public mails. The rules must maintain the accuracy, integrity, and secrecy of the ballot process and must allow registration and voting by facsimile through use of a private corporation or other private entity for transmission of facsimile messages only if the secretary of state finds that the use is essential to the purposes of this chapter.

(2) The secretary of state may apply for and receive a grant of funds from any agency or office of the United States government or from any other public or private source and may use the money for the purpose of implementing this chapter.

History: En. Sec. 2(2), (3), Ch. 111, L. 1991; amd. Sec. 49, Ch. 42, L. 1997; amd. Sec. 3, Ch. 80, L. 1999; amd. Sec. 22, Ch. 557, L. 2003; Sec. 13-13-278, MCA 2001; redes. 13-21-104 by Sec. 24, Ch. 557, L. 2003.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.
Close of registration, 13-2-301.

Part 2 Absentee Voting

13-21-201. Registration of United States electors — simultaneous application for absentee ballot. (1) A United States elector may register with the election administrator in the elector's county of residence by properly completing, signing, and returning:

- the voter registration form;
- the federal post card application; or
- the federal write-in absentee ballot as provided in 13-21-205.

2007 MCA

13-21-101

ELECTIONS

1070

CHAPTER 20
RESERVED

CHAPTER 21
MONTANA ABSENT UNIFORMED SERVICES
AND OVERSEAS ELECTOR VOTING ACT

Part 1 — General Provisions

- 13-21-101. Short title.
- 13-21-102. Definitions.
- 13-21-103. Secretary of state designated as single point of contact — rulemaking.
- 13-21-104. Adoption of rules — acceptance of funds.

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Part 1
General Provisions

13-21-101. Short title. This chapter may be cited as the “Montana Absent Uniformed Services and Overseas Elector Voting Act”.

History: En. Sec. 1, Ch. 557, L. 2003.

13-21-102. Definitions. As used in this chapter, the following definitions apply:

(1) “Absent uniformed services elector” means an absent uniformed services voter pursuant to 42 U.S.C. 1973ff-6 who is:

(a) a member of the uniformed services on active duty who, by reason of the active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(b) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; or

(c) a spouse or dependent of a member referred to in subsection (1)(a) or (1)(b) who, by reason of the member’s active duty, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

(2) “Federal post card application” means the federal post card application prescribed pursuant to 42 U.S.C. 1973ff.

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(4) “Member of the merchant marine” means, pursuant to 42 U.S.C. 1973ff-6, a person, other than a member of the uniformed services or an individual employed, enrolled, or maintained on the Great Lakes of the inland waterways, who is:

(a) employed as an officer or crew member of a vessel documented under the laws of the United States, a vessel owned by the United States, or a vessel of a foreign-flag registry under charter to or control of the United States; or

(b) enrolled as an officer or crew member with the United States for employment or for training for employment or who is maintained by the United States for emergency relief service on a vessel described in subsection (4)(a).

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**MONTANA ABSENT UNIFORMED SERVICES
AND OVERSEAS ELECTOR VOTING ACT**

13-21-201

- (a) an absent uniformed services elector who by reason of active duty or service is absent from the United States on the date of the election involved;
- (b) a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or
- (c) a person who resides outside the United States and would otherwise be qualified to vote in the last place in which the person was domiciled before leaving the United States.
- (6) "Regular absentee ballot" means the absentee ballot prepared by the election administrator for any election.
- (7) "Uniformed services" means, pursuant to 42 U.S.C. 1973ff-6, the U.S. army, navy, air force, marine corps, and coast guard, the commissioned corps of the U.S. public health service, and the commissioned corps of the U.S. national oceanic and atmospheric administration.
- (8) "United States", as used in the context of describing a geographical area, means, pursuant to 42 U.S.C. 1973ff-6, the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.
- (9) "United States elector" means an absent uniformed services elector or an overseas elector.
- (10) "Voter registration form" means the form approved by the secretary of state that an elector may use to register to vote in Montana.

History: En. Sec. 2, Ch. 557, L. 2003.

13-21-103. Secretary of state designated as single point of contact — rulemaking.

- (1) The office of the secretary of state is the state's single point of contact responsible for providing information regarding voter registration and absentee ballot procedures to be used by a United States elector.
- (2) The secretary of state shall, with the assistance of local election administrators, compile, make available to the general public, or forward to appropriate federal authorities any reports or information required to be compiled, made available, or forwarded pursuant to federal law.
- (3) The secretary of state may adopt rules to implement the provisions of this chapter.

History: En. Sec. 3, Ch. 557, L. 2003; amd. Sec. 1, Ch. 157, L. 2007.

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MONTANA STATE SENATE

Sen. Hamlett -
 Chantell called again
 454-6711 - of M.I. by ballots returned.

Per # 454-6711

Nancy Clark
 Sgt.



MONTANA STATE SENATE

Sen. Hamlett
 Chantell from Cascade Co.

Military-ballots mailed out

~~454-6711~~

Do not know how many were
 returned - if this can be
 determined she will call back

Nancy Clark



MONTANA STATE SENATE

Sen. Hamlett
 Clerk & Recorder
 H.D. 19 - 655 - Absentee - sent
 638 - Rec & counted

H.D. 20

617 sent

591 - Rec. & counted.

EXHIBIT

DATE

310-2009

SB

SB 367



MONTANA STATE SENATE

Sen. Hambert -
Chantell called again
446 - of Mil. Hwy ballots returned.

Pen # 454-6711

Nancy Clark
sgt.



MONTANA STATE SENATE

Sen. Hamlett
Chantell from Cascade Co.

Military-ballots mailed out
832 -

Do not know how many were
returned - if this can be
determined she will call back

Nancy Clark



MONTANA STATE SENATE

Sen. Hamlett
Chantell - Clerk & Recorder
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